

# **HAWAI'I CIVIL TRAFFIC RULES**

**Adopted and Promulgated by  
the Supreme Court  
of the State of Hawai'i**

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**The Judiciary  
State of Hawai'i**

# HAWAI‘I CIVIL TRAFFIC RULES

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## HAWAI'I CIVIL TRAFFIC RULES

**Rule 1. TITLE.**

These rules shall be known and cited as the Hawai'i Civil Traffic Rules or HCTR.

**Rule 2. SCOPE AND PURPOSE OF RULES.**

**(a) Scope of Rules.** These rules govern the practice and procedure in the District Courts of the State of Hawai'i for all cases involving civil traffic infractions except as otherwise provided by HRS Chapter 291D.

**(b) Purpose.** These rules shall be construed to secure the just, speedy and inexpensive determination of every traffic infraction.

**Rule 3. DEFINITIONS.**

**(a) Complaint and Summons.** The notice of traffic infraction issued to the defendant at the time of the parking or moving violation, whatever its title or denomination.

**(b) Court.** A duly appointed district or per diem judge.

**(c) Default Judgment.** A judgment entered in favor of the State of Hawai'i when a defendant fails to answer or respond to the complaint within fifteen (15) calendar days from the issue date on the notice of infraction.

**(d) Defendant.** The person charged with a traffic infraction.

**(e) Hearing.** A proceeding conducted by the district court pursuant to HRS § 291D-8 at which a defendant either contests the traffic infraction or admits the traffic infraction but offers an explanation to mitigate the monetary assessment or traffic points, or both, imposed.

**(f) Judge.** A duly appointed district or per diem judge.

**(g) Monetary Assessment.** Any assessment of fines imposed by the court pursuant to HRS § 291D-9.

**(h) Notice of Traffic Infraction.** The complaint and summons, parking citation, or other form by which the defendant is notified of the infraction. The notice of traffic infraction is commonly called a ticket.

**(i) Officer.** Police or other person authorized by law to issue a complaint and summons, parking citation, or other notice of traffic infraction.

**(j) Stopper.** A restriction placed on a defendant's driver's license or motor vehicle registration that prevents renewal.

**(k) Traffic Infraction.** Any violation of statutes, ordinances, or rules relating to traffic movement and control, including parking, standing, equipment, and pedestrian offenses, for which the prescribed penalties do not include imprisonment.

**(l) Trial.** A trial conducted by the district court pursuant to the Hawai'i Rules of Penal Procedure and Rules of the District Court.

**(m) Written Statement.** A statement submitted to the court in lieu of a personal appearance to explain or contest the traffic infraction; the defendant's answer to the notice of infraction.

**Rule 4. APPLICABILITY OF RULES.**

These rules apply to all civil traffic infraction proceedings, except as otherwise provided.

**Rule 5. LOCAL COURT RULES.**

Each court may propose, subject to Supreme Court approval, additional rules. Local or special rules shall not be adopted without the approval of the Supreme Court.

**Rule 6. COMMENCEMENT OF ACTION.**

An action is commenced by serving the notice of traffic infraction and by filing it with the Traffic Violations Bureau or District Court of the circuit where the alleged traffic infraction occurred.

**Rule 7. FILING THE COMPLAINT.**

The officer or some other person authorized by the issuing entity shall file the original of the notice of traffic infraction with the Traffic Violations Bureau or District Court no later than seven (7) working days after the date it is issued.

**Rule 8. ANSWER AND APPEARANCE.**

**(a) Generally.** A defendant receiving a notice of traffic infraction shall answer within fifteen (15) days.

**(b) Alternatives.** A defendant may answer the notice of traffic infraction by:

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(1) Paying the fine indicated on the notice. The court will enter a judgment in favor of the State; or

(2) Denying the traffic infraction and requesting a hearing to contest the allegations, then appearing in person or submitting a written statement; or

(3) Admitting the traffic infraction and requesting a hearing to explain any mitigating circumstances, then appearing in person or submitting a written statement.

**(c) No Counterclaim or Joinder May Be Filed.** Proceedings pursuant to this rule shall not be joined with any unrelated action, nor shall a defendant be allowed to file a counterclaim.

**(d) Method of Answer.** A defendant may answer a notice of traffic infraction either in person or by mail. If the answer is mailed, it must be postmarked within fifteen (15) days of the date on the notice of traffic infraction.

**(e) Failure to Answer.** If the defendant fails to answer within fifteen (15) days, the court shall thereafter enter default judgment in favor of the State. If a personal check is dishonored, the defendant will be deemed not to have answered and default judgment shall be entered in favor of the State.

**(f) Appearance.**

(1) **APPEARANCE AND REFUSAL.** A defendant who appears before the court and refuses to enter an answer either admitting, admitting with explanation, or denying the commission of the traffic infraction shall be deemed to have denied the infraction.

(2) **APPEARANCE BY DEFENDANT THROUGH ATTORNEY.** A defendant may also appear, answer and have judgment entered through an attorney, who shall either appear in person or shall file, at or before the time of appearance, a written answer on behalf of the defendant. The court may, in its discretion, require the presence of the defendant at any stage of the proceeding not otherwise required by these rules.

(3) **MANDATORY COURT APPEARANCES.** The court may require a defendant to appear in any case; however, the court shall require a defendant to appear personally for hearing if the judgment will result in revocation or suspension of the defendant's driving privileges as provided for in HRS § 286-125.

## Rule 9. SUFFICIENCY OF THE NOTICE OF TRAFFIC INFRACTION.

**(a) Notice of Traffic Infraction.** The notice of traffic infraction is sufficient if it contains either a written description or statutory designation of the traffic infraction.

If the defendant's signature is not obtained on the traffic/criminal notice of traffic infraction, the officer may indicate either "refused to sign" or "no signature for safety reasons." The lack of the defendant's signature for any reason does not void the traffic/criminal notice of traffic infraction. The defendant is deemed to have been notified of the traffic infraction when the traffic/criminal notice of traffic infraction is served.

**(b) Speed Measuring Device: Certification.**

(1) **GENERALLY.** This rule applies only to contested hearings for traffic infraction cases.

(2) **CERTIFICATE; FORM.** The officer may certify on any speeding violation that the testing device was in proper working order at the time the notice of traffic infraction was issued.

## Rule 10. AMENDING THE NOTICE OF TRAFFIC INFRACTION.

The notice of traffic infraction may be amended at any time prior to judgment. All amendments to the notice of traffic infraction relate back to the issue date on the notice.

## Rule 11. REQUEST FOR HEARING; CONTINUANCE; CHANGE OF VENUE.

**(a) Request for Hearing.** A defendant may request a contested or mitigation hearing.

(1) **TRAFFIC/CRIMINAL.** The date, time and place of the hearing shall be noted on the notice of traffic infraction.

(2) **PARKING.** A defendant may request a hearing in person, by telephone, by filling out the "Request for Hearing" box on the notice of traffic infraction, or by delivering or faxing any other writing which requests a hearing.

**(b) Notice of Hearing.** If a hearing is requested, the court shall mail the defendant a notice of hearing no later than thirty (30) days from the postmarked date of the request. The notice shall state the date, time and place of the hearing.

(c) **Continuance.** A defendant may continue a hearing in person, by telephone or by mail.

The hearing shall be scheduled not more than ninety (90) days from the date on the original notice of hearing, unless otherwise agreed to by the defendant in writing.

(d) **Change of Venue.** A defendant may request a change in venue only for hearings where no witnesses are subpoenaed. The venue change is limited to the circuit where the notice of traffic infraction was issued.

#### **Rule 12. COMPANION CASES.**

(a) **Generally.** If a traffic infraction and a criminal traffic case are based on the same conduct or are otherwise related, the cases shall be consolidated at any point in the proceedings by motion of any party, or by the court's own motion.

(b) **Procedure.** At the trial of both the criminal traffic case and the traffic infraction, the rules governing criminal cases shall apply. However, if the companion criminal traffic case is disposed of prior to trial, the remaining traffic infraction shall be processed in accordance with these rules.

#### **Rule 13. SUBPOENA.**

For a contested case hearing the court may, upon the request of the defendant or its own initiative, compel the attendance of the officer who issued the notice of traffic infraction and other witnesses. Requests for subpoenas must be made at least ten (10) days before the scheduled hearing. If the defendant requested issuance of the subpoena, the defendant is responsible for its service and for payment of the mileage and witness fees.

#### **Rule 14. CONDUCT OF HEARINGS.**

(a) **Generally.** The court shall conduct all hearings in accordance with applicable law.

(b) **Procedure.** The procedure for all hearings shall be informal. A prosecutor will not be present and witnesses will not be required.

(c) **Standard of Proof.** The standard of proof applied shall be a preponderance of the evidence.

(d) **Appearance.** A defendant may appear either in person or by written statement.

(e) **Written Statement.** A defendant may appear by submitting a written statement for either a mitigation or contested hearing. The court shall

review the written statement, determine the type of hearing, enter judgment, and determine the amount of the monetary assessment and points, if any.

(f) **Evidence.** Evidence shall consist of the notice of traffic infraction, applicable police reports or other written statements by the issuing officer, and any evidence or written statement submitted by the defendant. The judge shall not be bound by rules of evidence, except provisions relating to privileged communications.

(g) **Failure to Appear.** If a defendant fails to appear either in person or by written statement, the court shall enter default judgment in favor of the State.

#### **Rule 15. DEFAULT JUDGMENT AND STOPPER.**

(a) **Entry of Judgment.** A default judgment may be entered if the defendant fails to answer the notice of traffic infraction within fifteen (15) days after it is served or fails to appear at any scheduled hearing. Additional notice before entry of default judgment is not required.

(b) **Notice of Default Judgment.** If default judgment is entered, the court shall mail a notice of default judgment to the defendant. The notice shall state that payment must be made within thirty (30) days and that a stopper will be placed on the defendant's vehicle registration or driver's license if payment is not made. The notice shall explain the procedure for setting aside a default judgment.

(c) **Stopper.** If payment is not made within thirty (30) days, the county director of finance will be notified and a stopper will be placed:

(1) On the defendant's driver's license for moving violations. Further, the defendant will not be permitted to renew his or her driver's license without obtaining a clearance; or

(2) On the defendant's vehicle registration for parking violations. Further, the registered owner will not be permitted to renew his or her vehicle registration without obtaining a clearance.

#### **Rule 16. JUDGMENT.**

(a) **In Favor of the State.** If the court determines that a traffic infraction has been committed, judgment shall be entered in favor of the State. The court may assess a monetary assessment which may include a fine and court costs along with



points, if any. The fine cannot exceed the maximum fine specified in the statute.

**(b) In Favor of the Defendant.** If the court determines that a traffic infraction has not been committed, the court shall dismiss the traffic infraction with prejudice. The dismissal shall be entered in the court records.

**(c) Failure to Satisfy Judgment.** If the defendant fails to satisfy a judgment entered against the defendant, the court shall issue a stopper and the administrative director or the administrative director's designee may undertake collection measures.

**(d) Notice of Decision and Judgment.** If a written statement is submitted, the court shall mail the defendant a notice of decision and judgment within thirty (30) days of the postmarked date of the answer. The notice shall state the decision of the court as well as the monetary assessment to be paid and points assessed, if any.

#### **Rule 17. DEFERRED PAYMENT AND COMMUNITY SERVICE.**

**(a) Deferred Payment.** The court may allow deferred payments if the defendant claims an inability to pay a monetary assessment.

**(b) Community Service.** The court may allow community service work in lieu of the fine. Community service may be ordered at the defendant's request if the defendant claims an inability to pay the monetary assessment.

#### **Rule 18. POST-JUDGMENT RELIEF.**

**(a) Post-Hearing Motion.** No post-hearing relief will be allowed except for a motion to set aside default judgment, motion to convert fine to community service, motion to amend judgment or a request for trial after a contested hearing.

**(b) Motion to Set Aside Default Judgment.** A default judgment may not be set aside after ninety (90) days unless there is an exceptional circumstance.

**(1) GENERALLY.** The court may set aside a default judgment entered for failure to appear, for good cause shown, and upon terms the court deems just. The court shall set aside a default judgment entered for failure to appear, if it appears to the court that the named defendant was not served a copy of the complaint, upon proof of military deployment, or

for any other reason where necessary to prevent manifest injustice.

**(2) PROCEDURE.** A motion to set aside default judgment must be made in writing and an appearance bond equal to the amount of the fine must be posted.

The motion to set aside default judgment and hearing upon the notice of traffic infraction shall be scheduled together on the hearing calendar. If the motion is granted, the hearing will commence immediately. If the motion is denied, the appearance bond shall be applied to satisfy the judgment.

If the defendant chooses to appear in writing, separate written statements must be submitted for the motion to set aside default judgment and for the notice of traffic infraction. The court shall notify the defendant of its decision, in writing, within thirty days after the date the motion was filed.

**(c) Motion to Convert Fine to Community Service.** A motion to convert a fine to community service may be filed at any time.

**(d) Motion to Amend Judgment.** A motion to amend the judgment to correct clerical mistakes may be filed at any time. The court may correct clerical errors at any time, with or without a motion by the defendant.

**(e) Request for Trial.** A defendant may request a trial only after a contested hearing. The request may be made at the conclusion of the hearing and must be made not later than thirty days after the date judgment is entered.

#### **Rule 19. TRIAL.**

**(a) For Contested Hearings.** A defendant's request for trial must be made within thirty days after a contested hearing judgment is entered. If the request is made at the contested hearing, the court shall set a trial date forthwith. If the request is made within thirty (30) days after entry of judgment, the court shall set a trial date as soon as is practicable. If a trial is requested and the defendant appears at the scheduled trial, the court shall vacate the judgment entered as a result of the contested hearing. There is no right to a trial after a mitigation hearing. If the defendant fails to appear at the requested trial, the judgment shall stand.

**(b) Procedure.** Trial shall be held pursuant to the Hawai'i Rules of Penal Procedure, Rules of the District Court, and Hawai'i Rules of Evidence. The arraignment and plea shall be held at the time of trial. The prosecutor will be present at the trial and must

prove the charge beyond a reasonable doubt.

**(c) Appeals.** Appeals from judgments entered after a trial may be taken in the manner provided for appeals from district court criminal judgments.

*(Amended October 4, 2004, effective January 1, 2005.)*

**Rule 20. ASSESSMENT OF SERVICE CHARGE.**

**(a) Dishonored Instruments.** The court shall assess and collect a service charge for any check, draft, or other negotiable instrument dishonored for any reason. The court shall require payment of the service charge in cash or by certified or cashier's check or by bank or postal money order. The service charge shall be deposited in the State General Fund unless otherwise governed by statute.

**(b) Delinquency Charge.** Unless waived by the court for good cause, upon each judgment there shall be assessed a delinquency charge of:

(i) 5% of the judgment amount when the final payment is made within 31 to 60 days; or

(ii) 10% of the judgment amount when the final payment is made within 61 to 120 days; or

(iii) 15% of the judgment amount when the final payment is made within 121 to 180 days; or

(iv) 20% of the judgment amount when the final payment is made within 181 to 365 days; or

(v) 25% of the judgment amount when the final payment is made after 365 days.

**(c) Other Actions to Enforce.** Nothing herein shall affect the court's ability to take such other action as necessary to enforce its judgment.

*(Amended November 12, 1997, effective January 1, 1998; further amended June 12, 2001, effective July 1, 2001.)*

**Rule 21. TIME.**

**(a) Computation.** In computing any time period under these rules, the day of the act, event, or default from which the period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included. Whenever an act required to be performed under these rules may be accomplished by mail, the act shall be deemed to have been performed on the date of the postmark on the mailed article.

**(b) Enlarged.** For good cause, when permitted

by statute or these rules, the court may enlarge any time period.

**Rule 22. EFFECTIVE DATE.**

These rules shall take effect on July 1, 1994, and shall apply to traffic infractions alleged to have been committed on or after that date.